

## UNITED STATES DISTRICT COURT

for the

District of MARYLAND

Division

Ivan R. Potts Jr.

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Officer Jason Di Paola  
Officer Ian Smith  
Baltimore City Police Department

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No.

GLR 21 CV 1073

(to be filled in by the Clerk's Office)

FILED  
 100440  
 RECEIVED

MAY 03 2021

CLERK U.S. DISTRICT COURT  
 DISTRICT OF MARYLAND  
 DEPUTY

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Ivan R. Potts Jr.  
 All other names by which  
 you have been known: \_\_\_\_\_  
 ID Number 64931-037  
 Current Institution Federal Correctional Institution  
 Address P.O. Box 1500  
Butner NC 27509  
City State Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name Officer Jason DiPaola  
 Job or Title (*if known*) Police Officer  
 Shield Number \_\_\_\_\_  
 Employer Baltimore City Police Department  
 Address 5371 Reistertown road  
Baltimore Md 21215  
City State Zip Code  
☒ Individual capacity ☒ Official capacity

**Defendant No. 2**

Name Officer Ian Smith  
 Job or Title (*if known*) Police Officer  
 Shield Number \_\_\_\_\_  
 Employer Baltimore City Police Department  
 Address 5371 Reistertown road  
Baltimore Md 21215  
City State Zip Code  
☒ Individual capacity ☒ Official capacity

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

Baltimore City Police Department  
Police DepartmentBaltimore City Police Department  
5371 Reistertown road

Baltimore

City

Md

State

21215

Zip Code

☒ Individual capacity☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐ Individual capacity☐ Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4<sup>th</sup> Amendment, 14<sup>th</sup> Amendment, 8<sup>th</sup> Amendment of  
the United States ConstitutionC. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

(See Attachment A)

All defendants are Law Enforcers and are employed through Balt. City.

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner
- ☐ Other (explain) \_\_\_\_\_

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

(See Attachment A)

The events arose on 3200 Chelsea terr., at 10:40pm on 8-24-2017

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.



C. What date and approximate time did the events giving rise to your claim(s) occur?

August 24<sup>th</sup> 2017 10:40 p.m.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

On 8-24-2017 Officers Jason DiPaola and Ian Smith, in a marked police cruiser and in full uniform, drove past my car that was legally parked on a street in Baltimore City. Officer Smith turned the police cruiser around and drove the wrong way up the one-way street to return to my vehicle. He parked near my car leaving the police cruiser facing the wrong way on the one way street boxing my car in. Both officers exited their vehicle and approached me without reasonable suspicion and I was unlawfully detained, arrested and seized before they had probable cause. On May 9<sup>th</sup> 2018 I was convicted... wrongly convicted.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Mental Anguish

Emotional Distress

Anxiety and Depression after the incident, due to false imprisonment.

Racial Discrimination, never received therapy

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Mental Anguish - \$50,000

Emotional Distress - \$50,000

Anxiety and Depression - \$150,000

False Imprisonment - \$100,000

Racial Discrimination - \$50,000

I also would like to receive therapy

**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

- ☐ Yes  
☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

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B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

- ☐ Yes  
☐ No  
☐ Do not know

N/A

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

- ☐ Yes  
☐ No  
☐ Do not know

N/A

If yes, which claim(s)?

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

N/A

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2. What did you claim in your grievance?

N/A

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3. What was the result, if any?

N/A

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4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

N/A

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

I was not incarcerated

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

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G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

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*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

### VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Ivan R. Potts Jr.

Defendant(s) Baltimore City Police Department, BPD officers, Wayne Jenkins, Evodio Hendrix and Maurice Ward

2. Court (if federal court, name the district; if state court, name the county and State)

IN THE COURT OF APPEAL OF Maryland / United States District Court for the District of Maryland

3. Docket or index number

Civil No.: 16-cv-03187-TDC / Misc. No. 6 IN THE COURT OF APPEALS of Maryland September Term 2019

4. Name of Judge assigned to your case

Theodore D. Chuang, Barbera, C.J., McDonald, Watts, Hotten, Getty, Booth, Wilner, Alan M.

5. Approximate date of filing lawsuit

September 2016

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

December 7, 2018

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Judgment was entered in my favor.

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

☒ Yes☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Ivan R. Potts Jr.

Defendant(s) Baltimore City Police Department, BPD Officers, Wayne Jenkins, Evodio Hendrix and Maurice Ward

2. Court (if federal court, name the district; if state court, name the county and State)

IN THE COURT OF APPEAL OF Maryland  
United States District Court for the District of Maryland

3. Docket or index number

IN THE COURT OF APPEAL  
OF MARYLAND  
Civil No.: 16-cv-03187-TDC / Misc. No. 6 September Term 2019

4. Name of Judge assigned to your case Theodore D. Chuang,

Barbera, C.J., McDonald, Watts, Hotten, Getty, Booth, Wilner, Alan M.

5. Approximate date of filing lawsuit

September 2016

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

December 7, 2018

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Judgment was entered in my favor

**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: ~~September 14<sup>th</sup>~~ April 26<sup>th</sup> 2021

Signature of Plaintiff Ivan R. Potts Jr.

Printed Name of Plaintiff Ivan R. Potts Jr.

Prison Identification # 64931-037

Prison Address F.C.I. 2 P.O. Box 1500

Butner NC 27509

City State Zip Code

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney \_\_\_\_\_

Printed Name of Attorney \_\_\_\_\_

Bar Number \_\_\_\_\_

Name of Law Firm \_\_\_\_\_

Address \_\_\_\_\_

City State Zip Code

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

IVAN R. POTTS, Jr.  
#64931-037 / November 8<sup>th</sup> 1985

F.C.I. 2  
P.O. Box 1500

Butner, North Carolina  
27509

(Full name, date of birth, identification #, address of petitioner)

Plaintiff,

v.

OFFICER JASON DI PAOLA,  
OFFICER IAN SMITH,  
BALTIMORE CITY POLICE DEPT.,  
5371 Reisterstown road  
Baltimore, MARYLAND  
21215

(Full name and address of defendant)

Defendant(s).

Case No. 21B21 CV 1073  
(Leave blank. To be filled in by Court.)

CERTIFICATE OF SERVICE

I hereby certify that on April 26<sup>th</sup> 2021,  
a copy of this \$1983 Civil Suit  
was mailed via first class mail, postage prepaid, to Clerk of Court, U.S. District  
Court, 6500 Cherrywood Lane, Greenbelt, MD 20770

Ivan R. Potts Jr.  
Signature of Plaintiff

Ivan R. Potts Jr. #64931-037  
Printed Name

F.C.I. 2  
P.O. Box 1500 / Butner, NC 27509  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Email Address